

January 10, 2003

SUBJECT: Non-Citizens in ARS Facilities

TO: Area Directors

FROM: Edward B. Knipling /s/
Acting Administrator

The purpose of this memo is to provide an update on policies and procedures for non-citizens in Agricultural Research Service (ARS) facilities. For the purpose of these procedures, there are two broad categories of non-citizens:

1. Workers, which include visiting scientists, students, collaborators/consultants/contractors, maintenance personnel; both non-employees and employees.
2. Visitors, who are provided short-term access to ARS facilities for the purposes of tours, workshops, meetings, etc.

Both workers and visitors must have a valid visa to be in the United States. Workers are generally sponsored by a Federal agency, an educational institution, an organization, or their employer. They may be paying their own expenses while working in the ARS facility. Visitors may or may not have a sponsor; they may be foreign business persons or tourists.

The Department of Agriculture (USDA) ban on sponsorship of new visa applications of non-citizens remains in effect until adequate procedures for background investigations can be established and verified. Non-citizens are permitted to work in ARS facilities provided they have a valid visa from a non-USDA source, with the following exceptions. No one from Iran, Iraq, Libya, Syria, Sudan, North Korea, or Cuba is permitted to work in ARS facilities as these countries are on the Department of State's list of State Sponsors of Terrorism.

Non-citizens working in the pathogen containment areas of Biosafety Level (BSL)-3 facilities, who were not there prior to April 12, 2002, must be escorted at all times, until USDA establishes an adequate procedure for background investigations. Escorted in this case means in visual contact at all times. Access to BSL-3 facility by a non-citizen continues to also require the approval of the ARS Homeland Security Office (ARS HS). Present policy does not require escort of non-citizens working in non-BSL-3 ARS facilities, nor does their presence require approval from ARS HS.

All visitors to ARS facilities must be escorted at all times.

All persons working with Select Agents (refer to Federal Register Notice, 12/13/02, "Possession, Use and Transfer of Select Agents and Toxins; Interim Final Rule" -Department of Health and Human Services; and Federal Register Notice, 12/13/02, "Agricultural Bioterrorism Protection Act of 2002; Possession, Use and Transfer of Biological Agents and Toxins, Interim Final Rule" - Animal and Plant Health Inspection Service) must obtain proper approval from the Animal and Plant Health Inspection Service prior to having access to such agents.

Tracking Workers

An electronic system for tracking workers is in the final stages of development within ARS. In the interim, ARS HS is tracking them manually. The documentation requirements for workers for purposes of tracking is greater than for that of visitors (see below). It is the responsibility of Area Directors to keep ARS HS informed of the arrival, departure, and change of status of all non-citizen workers in an ARS facility regardless of sponsorship.

Visitor Logs

ARS facilities are to keep an electronic log of all non-citizen visitors to the facility.

The worker tracking system and the visitor logs will provide ARS with the capability to respond quickly to requests for information regarding non-citizens from the Department or from other Federal agencies with a need to know.

Enclosed are interim procedures and associated forms for monitoring and tracking non-citizens in ARS facilities.

4 Enclosures